BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ALICE M. STEPHENSON) Claimant)	
VS.	Docket No. 173,930
SUNSHINE BISCUIT, INC.	Dooks: 140. 170,000
Respondent) AND	
CRUM & FORSTER COMMERCIAL INSURANCE) Insurance Carrier	
AND)	
KANSAS WORKERS COMPENSATION FUND	

<u>ORDER</u>

ON the 15th day of February, 1994, the application of the respondent for review by the Workers Compensation Appeals Board of a Preliminary Hearing Order entered by Administrative Law Judge Alvin E. Witwer dated January 14, 1994, came on for oral argument by telephone conference.

APPEARANCES

The claimant appeared by and through her attorney, Edward B. Rucker of Kansas City, Missouri. The respondent and its insurance carrier appeared by and through their attorney, Gary R. Terrill of Overland Park, Kansas. The Kansas Workers Compensation Fund appeared by and through its attorney, William E. Hans of Kansas City, Missouri. There were no other appearances.

RECORD

The record considered for purposes of this appeal includes the transcript of the preliminary hearing held January 12, 1994 and all exhibits attached thereto, as well as all pleadings filed of record in this case.

ISSUES

This sole issue presented for purposes of this appeal is whether claimant suffered an accidental injury arising out of and in the course of her employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board finds that claimant has established by a preponderance of the credible evidence that she suffered injury arising out of and in the course of her employment and affirms in all respects the January 14, 1994 Order of Administrative Law Judge Alvin E. Witwer. The evidence generally establishes the claimant, an employee of Sunshine Biscuits, Inc., suffered injury to her leg and knee as a result of the work performed for Sunshine Biscuits, Inc. The record does indicate that she has not, in several instances, truthfully related the cause of her condition. However, her own testimony, as supported by a significant portion of the medical records, does adequately establish her claim. Respondent's reliance upon the opinion of Dr. Reed does not outweigh the conclusions of other physicians who attribute the condition to her work.

AWARD

WHEREFORE, the Appeals Board hereby affirms in all respects the Order entered by Administrative Law Judge Alvin E. Witwer dated January 14, 1994, ordering medical treatment under the direction of Dr. John A. Pazell, M.D., and temporary total benefits at the rate of \$299.00 per week commencing January 12, 1994 and continuing until the claimant is released.

IT IS SO ORDERED.
Dated this day of March, 1994.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

cc: Edward B. Rucker, 306 East 12th, Suite 940, Kansas City, Missouri 64106 Gary R. Terrill, P.O. Box 12290, Overland Park, Kansas 66282 William E. Hans, 700 West 47th, Suite 1000, Kansas City, Missouri 64112-1802 Alvin E. Witwer, Administrative Law Judge George Gomez, Director